



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2021-0431]

RIN 1625- AA08

Special Local Regulation; Tampa Bay, St. Petersburg, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for certain waters of Tampa Bay, St. Petersburg, FL. This action is necessary to provide for the safety of race participants, participant vessels, spectators, and the general public on these navigable waters near the St. Petersburg Pier during the St. Pete Powerboat Grand Prix boat race. This rule will establish an enforcement area where all persons and vessels, except those persons and vessels participating in the high speed boat race, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area without obtaining permission from the Captain of the Port St. Petersburg or a designated representative.

DATES: This rule is effective daily from 8 a.m. until 7 p.m. each day from September 3, 2021, through September 5, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0431 in the search box and click "Search." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician First Class Michael Shackleford, U.S. Coast

Guard Sector St. Petersburg Prevention Department; telephone 813-228-2191, email

Michael.D.Shackleford@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. Immediate action is needed to protect persons and property from the potential safety hazards associated with the power boat race. The NPRM process would delay the establishment of the temporary special local regulation until after the date of the event and compromise public safety. We must establish this temporary special local regulation immediately and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the power boat race.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the St. Petersburg (COTP) has determined that potential hazards associated with the St. Pete Powerboat Grand Prix, St. Petersburg, FL will be a safety concern for anyone within certain waters adjacent to St. Petersburg Pier. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the regulated area during the event.

IV. Discussion of the Rule

This rule establishes a temporary special local regulation daily from 8:00 a.m. until 7:00 p.m. each day from September 3, 2021, through September 5, 2021. The temporary special local regulation will establish an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions. The enforcement area will cover all navigable waters of Tampa Bay near the St. Petersburg Pier inside an area commencing at latitude 27°46'56" N, 082°36'56" W, thence to position 27°47'9" N, 082°34'33" W, thence to position 27°46'7", N, 082°34'29" W, thence to position 27°45'59" N, 082°37'3" W, thence to position 27°46'24", N, 082°37'30" W, thence back to the original position, 27°46'56" N, 082°36'56" W.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the COTP St. Petersburg by telephone at (727) 824-7506, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative. The Coast Guard will provide notice of the temporary special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and/or on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the following reasons: (1) the special local regulation would be enforced in a small designated area off of the St. Petersburg Pier for only eleven hours on three days; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the regulated area without authorization from the COTP St. Petersburg or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the regulated area during the enforcement period if authorized by the COTP St. Petersburg or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and/or Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the

various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary special local regulation related to organized marine events lasting 11 hours each day for a total of three days. It is categorically excluded from further review under paragraph L(61) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this

determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100-- SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T07-0431 to read as follows:

§ 100.T07-0431 Special Local Regulations; St. Pete Powerboat Grand Prix, Tampa Bay; St. Petersburg, FL.

(a) *Location.* The following regulated area is a special local regulation: All waters of Tampa Bay contained within the following points: 27°46'56" N, 082°36'56" W, thence to position 27°47'9" N, 082°34'33" W, thence to position 27°46'7", N, 082°34'29" W, thence to position 27°45'59" N, 082°37'3" W, thence to position 27°46'24", N, 082°37'30" W, thence back to the original position, 27°46'56" N, 082°36'56" W. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers

operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP St. Petersburg in the enforcement of the regulated areas.

(c) *Regulations.* (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the race area unless an authorized by the COTP St. Petersburg or a designated representative.

(2) Designated representatives may control vessel traffic throughout the enforcement area as determined by the prevailing conditions.

(3) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the COTP St. Petersburg by telephone at (727) 824-7506, or a designated representative via VHF radio on channel 16. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative.

(4) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners and/or Broadcast Notice to Mariners.

(d) *Enforcement period.* This rule will be enforced daily from 8 a.m. until 7 p.m., on September 3, 2021 through September 5, 2021.

Dated: August 24, 2021.

MATTHEW A. THOMPSON

CAPTAIN, U.S. Coast Guard

Captain of the Port St. Petersburg.